

REMARKS

Claims 8-12, 14-15, 23-27, and 29-31 remain for reconsideration.

Claims 1-7, 13, 16-22, and 28 have been cancelled without prejudice or disclaimer.

The claims stand rejected as follows:

1. Claims 1-6, 8, 11, 14-21, 23, 26, 29, and 30 have been rejected under 35 U.S.C. 102(a) as being anticipated by Cromwell;
2. Claims 7 and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Cromwell;
3. Claims 9, 10, 24, and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Cromwell further in view of U.S. Patent 6,295,342 to Kaminsky; and
4. Claims 13 and 28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Cromwell further in view of U.S. Patent 6,049,765 to Iyengar;
5. Claims 1, 8, 12, 16, 23, and 27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Greene further in view of Cromwell.

The subject matter of claim 13 has been incorporated into its parent claim 8. Similarly, the subject matter of claim 28 has been incorporated into its parent claim 23.

Thus, as amended, the only rejection at issue in this case is identified above as rejection #4. That is, all claims stand rejected under 103(a) as being unpatentable over Cromwell further in view of U.S. Patent 6,049,765 to Iyengar.

This rejection is respectfully traversed based on the following discussion.

All of the references currently relied upon have been previously addressed. With regard to Cromwell and Greene, these references were relied upon for substantially showing the invention as claimed. Both of these references are "Network Working Group" "Request for Comment" papers from the Internet Society, both generally directed to Media Gateway Protocols". However, as set forth for example in the application on page 3, line 20, the Audio Resource Functions (ARF) commercially available, do not provide sufficient media processing capabilities. Embodiments of the present invention seek to provide more advanced capabilities.

One of the features set forth in the original independent claims is

directed to determining a reason as to why the audio play/record was stopped or terminated.

With regard to Cromwell, the Examiner has relied on portions of page 14 to teach a variety of termination codes. With regard to Greene, the Examiner has relied on page 14 to teach that a protocol may report to the Media Gateway (MG) as to reasons for abnormal failure.

As previously amended, all independent claims recite “an audio container” and “specifying a location in the audio stream container that was being played when the play was terminated” such as recited in claim 23, and similarly in the other independent claims. This of course may facilitate restarting the audio play or record from that point once the reason for the stop has been determined or corrected.

In the Final Office Action, the Examiner has cited to Cromwell as teaching this feature. In particular, the Examiner appears to be relying on the “Amount Played” parameter very briefly mentioned on page 14 of Cromwell. As set forth, Cromwell defines Amount Played as “*The length played on an initial prompt if the prompt was interrupted, in 100 ms units*” (emphasis Applicant’s). The Examiner reasons that this is analogous to “specifying a location in the audio stream container that was being played when the play was terminated” as recited in Applicant’s independent claims.

While not conceding this point, in order to move this case forward, independent claims 8 and 23 have been further amended to recite “a pause

compression process operable to detect and to eliminate periods of speech inactivity from a recording”.

The Examiner is relying on the combination of Cromwell and Iyengar for teaching this combination. In particular, the Examiner has relied on the abstract of Iyengar for teaching a recording process that detects and eliminates periods of speech inactivity. The “suggestion/motivation” to combine reasoned by the Examiner “would have been to increase data storage capability by removing unnecessary silence segments”.

However, it is respectfully submitted that this is circular reasoning. A recoding process that eliminates periods of speech activity is indeed for removing unnecessary silence segments. That is not a “motivation” to combine with Cromwell. Rather it is just another way of stating the subject matter of Iyengar. There is no hint or suggestion in either Cromwell or Iyengar of combining the two. Simply restating the subject matter disclosed in Iyengar is not motivation that would have suggested of one in skill in the art to combine it with Cromwell.

For an obviousness type rejection to be proper, the prior art relied on by the examiner must be analogous art and contain a suggestion or teaching of what is being claimed. Where references are being combined, the references must be related to the same subject matter and there must be a teaching in at least one of the references for the combination proposed by the examiner. The examiner cannot rely on the applicant's own disclosure and combine the

references based on this hindsight. To support a conclusion of *prima facie* obviousness, either the references must expressly or impliedly suggest the claimed combination or the examiner must present a convincing line of reasoning as to why the person of ordinary skill in the art would have found the claimed invention obvious in light of the teachings of the references. Ex Parte Clapp, 227 USPQ 972. **The mere fact that the prior art could be modified as proposed by the examiner, absent a motivation to do so provided by the reference, does not support the rejection.** In re Gordon, 221 USPQ 1125, 1127; In re Deminski, 230 USPQ 313, 315.

Further, Iyengar is not analogous art within the meaning of Section 103. The present invention involves an audio record process operable to request a decomposed media gateway to record an audio stream in response to a received signal. In contrast, Iyengar is directed to silence compression and has nothing whatsoever to do with such compression in a decomposed media gateway environment. While both the present invention and Iyengar may involve silence compression, nothing in Iyengar teaches or suggests silence compression in a decomposed media gateway. This teaching comes only from Applicant's own disclosure.

What the Examiner has done is attempted to construct the claimed invention from the referenced patents with no independent teaching for the construction he proposes. Applicant has solved a fundamental problem in audio modules. Applicant's invention is simply not suggested by the prior art

and, therefore, applicant is entitled to protection sought by the rejected claims.

Since the above features recited in the claims are not taught or suggested by the prior art of record, it is respectfully requested that the outstanding rejections be withdrawn.

In view of the foregoing, it requested that the application be reconsidered, that claims 8-12, 14-15, 23-27, and 29-31 be allowed and that the application be passed to issue. Please charge any shortages and credit any overcharges to Intel's Deposit Account number 50-0221.

Respectfully submitted,

/Kevin A. Reif/

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